

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1730 K STREET NW, 6TH FLOOR
WASHINGTON, D.C. 20006

AUG 13 1986

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. SE 86-67
Petitioner	:	A.C. No. 01-01247-03701
	:	
v.	:	No. 4 Mine
	:	
JIM WALTER RESOURCES, INC.,	:	
Respondent	:	

DECISION

Appearances: William Lawson, Esq., Office of the Solicitor, U.S. Department of Labor, Birmingham, Alabama, for petitioner; R. Stanley Morrow, Esq., and Harold D. Rice, Esq., Birmingham, Alabama, for Respondent.

Before: Judge Merlin

This case is a petition for the assessment of three civil penalties filed by the Secretary of Labor against Jim Walter Resources, Inc.

At the hearing the Solicitor advised that the parties proposed to settle the violations for the full assessed amounts as follows: Citation 2605565 was issued for a violation of 30 C.F.R. § 75.517 because the power cable from the scoop charger to batteries that were being charged on the 010 section, was not insulated adequately and fully protected. The gravity of the violation was serious because a miner contacting the bare, energized conductors could receive a serious electrical shock. In addition, the violation resulted from the operator's negligence. The proposed settlement was for the original amount of \$800.

Citation No. 2605566 was issued for a violation of 30 C.F.R. § 75.400 because combustible materials were permitted to accumulate at a scoop charging station. The gravity of the violation was serious, because oil, coal and oil-soaked coal were permitted to accumulate on the footwall. Power cables were coiled on top of the combustible materials which could have provided an ignition source for the accumulation. A fire could cause a miner in the area to be exposed to smoke inhalation and